

MEMORANDUM

To: OneCity Health Partners

From: Catherine G. Patsos, Esq., CHC
Chief Corporate Compliance Officer
Corporate Privacy and Security Officer
NYC Health + Hospitals

Date: April 2, 2019

Re: **2019 DSRIP Compliance Attestation of OneCity Health Partners**

The purpose of this correspondence is to provide all performing providers (hereinafter also referred to as “Partners”) in the NYC Health + Hospitals sponsored OneCity Health Performing Provider System (“PPS”) (“OneCity Health”) with information about the compliance obligations of both the PPS and its Partners.

To that end, OneCity Health has created an attestation which will provide a critical snapshot of the compliance foundation of its Partners. The *Compliance Attestation of OneCity Health Partners* (“Attestation”) must be completed by all Partners and returned to the NYC Health + Hospitals’ Office of Corporate Compliance (“OCC”) by close of business Monday, April 30, 2019.

I. Background

A. *Legal Requirements*

As a PPS lead in the New York State Department of Health Delivery System Reform Incentive Payment (“DSRIP”) program, OneCity Health is responsible for taking “reasonable steps to ensure the Medicaid funds distributed as part of the DSRIP program are not connected with fraud, waste, and abuse.”¹ Pursuant to the Office of the Medicaid Inspector General (“OMIG”) DSRIP guidance, “[i]t is reasonable for

¹ Office of the Medicaid Inspector General’s (“OMIG”) *DSRIP Compliance Guidance 2015-01 Revised: Special Considerations for Performing Provider System (PPS) Leads’ Compliance Program*, pgs. 1-2 [Recommendations], available at: https://www.omig.ny.gov/images/stories/compliance_alerts/20150901_DSRIP_CompGuidance_2015-01_Rev.pdf.

[OneCity Health] to consider its [Partner’s] program integrity systems” to fulfill its fraud, waste, and abuse oversight efforts related to the allocation of DSRIP funds to its Partners.²

B. Overview of the Key Components of the Attestation Process

Based on the foregoing, OneCity Health developed the Attestation, which is designed to assess the compliance program integrity of its Partners. OneCity Health requires all Partners to provide and disclose the requested compliance-related information within the Attestation.³ Accordingly, Sections II-VI below discuss the following key Attestation topics:

- (i) DSRIP Compliance Training implementation;
- (ii) NYC Health + Hospitals’ Principles of Professional Conduct or the Partner’s standards or code of conduct;
- (iii) OMIG Annual Compliance Certifications;
- (iv) Completion and Return of the Attestation; and
- (v) Questions Concerning the Attestation.

II. DSRIP Compliance Training

Pursuant to New York State mandatory provider compliance program regulations, NYC Health + Hospitals is required to adopt and implement an effective compliance program, which includes the provision of periodic compliance “*training and education of all affected employees and persons associated with [NYC Health + Hospitals] ... on compliance issues, expectations and the compliance program operation.*”⁴ Under the OMIG DSRIP compliance guidance, these compliance and training and education requirements extend to the DSRIP program.⁵ Accordingly, all Partners who have received or are eligible to receive DSRIP funds are required to undergo compliance training and education about OneCity Health’s compliance program.⁶

OneCity Health is responsible for ensuring that its Partners complete DSRIP compliance training.⁷ Partners who do not provide their workforce with the required compliance training could exercise either of the following approaches to appropriately utilize the training provided by OneCity Health:

² *Id.* at p. 2 (emphasis added).

³ Partners are reminded that § 2.3.8 of the Master Services Agreement (“MSA”) between NYC Health + Hospitals, HHC Assistance Corp. d/b/a/ OneCity Health Services, and each Partner, requires Partners to conduct a DSRIP compliance program as required by New York State or OneCity Health Services. Additionally, § 2.39 of the MSA requires Partners to certify their full performance of their compliance obligations.

⁴ 18 NYCRR §521.3(c)(3); Social Services Law § 363-d(2)(c) (emphasis added).

⁵ See OMIG’s *DSRIP Compliance Guidance 2015-01 Revised: Special Considerations for Performing Provider System (“PPS”) Leads’ Compliance Program*, fn1, *supra*, at pgs. 2-3) Special Considerations by Element – Element 3).

⁶ See *id.*

⁷ See OMIG’s *DSRIP Compliance Guidance 2015-02-Frequently Asked Questions by Performing Provider System (PPS) Leads Relative to Compliance Programs*, pg. 2, available at: https://www.omig.ny.gov/images/stories/compliance_alerts/20150715_dsrip_faqs.pdf.

- (i) Utilize the DSRIP Compliance Training developed by the OCC to incorporate into any current methods of compliance and education training; or
- (ii) Simply distribute the DSRIP Compliance Training to workforce members involved with or otherwise affected by the DSRIP program.

Note that the DSRIP Compliance Training is available on the OneCity Health Compliance website at: <https://www.onecityhealth.org/dsrip-compliance/>.

III. NYC Health + Hospitals Principles of Professional Conduct

NYC Health + Hospitals' Principles of Professional Conduct ("POPC") is a guide that sets forth NYC Health + Hospitals' compliance expectations and describes NYC Health + Hospitals' standards of professional conduct as well as efforts to prevent, fraud, waste, and abuse, including but not limited to, as applicable to Partners, the misuse or misallocation of DSRIP funds. All Partners must adhere to the requirements outlined in the POPC, including reporting any suspected violations of the POPC to the OCC in a timely manner, and fully cooperating with any investigation by NYC Health + Hospitals. Partners also must not hire or contract with persons or entities excluded from participation in any Federal health care program. The POPC is available on NYC Health + Hospitals' website at <http://www.nychealthandhospitals.org/wp-content/uploads/2016/07/principles-of-professional-conduct.pdf>.

IV. OMIG Annual Compliance Certifications

Under New York Social Services Law ("SSL"), any person, provider, or affiliate that claims, orders or receives payment for care, services, or supplies that were submitted to or received from the Medicaid program, either directly or indirectly, in the aggregate of at least \$500,000 in any consecutive 12-month period, OR is any entity under Article 28 or 36 of the Public Health Law or Article 16 or 31 of the Mental Hygiene Law is required to complete an OMIG annual Compliance Program Certification.

In addition, the Deficit Reduction Act of 2005 ("DRA") requires providers who receive or make \$5 million or more in direct Medicaid payments to annually certify compliance with the DRA through the OMIG as well. OneCity Health utilizes the aforementioned OMIG compliance certifications to help it assess the program integrity of its Partners' compliance foundation. The Attestation asks a series of questions to determine whether a Partner is required to submit to OMIG one or both of the two aforementioned certifications, and if so, whether such Partner has actually carried out this requirement. A copy of the electronic confirmation receipt that OMIG provided to each Partner upon its certification submission(s) must be submitted to OneCity Health along with their completed Attestation.

Remember, not all Partners are required to complete these OMIG compliance certifications. Rather, only Partner organizations that meet the criteria described above are required to annually file such certifications.

For guidance or more information regarding SSL § 363-d certification, OneCity Health recommends that Partners review, in consultation with their counsel, the *OMIG Frequently Asked Questions (FAQs) – NYS Mandatory Compliance Programs*, which is available at: https://www.omig.ny.gov/images/stories/provider_compliance/ssl_faqs.pdf.

For guidance or more information regarding DRA certification requirements, OneCity Health recommends that Partners review, in consultation with their counsel, the *OMIG Federal Deficit Reduction Act Frequently Asked Questions (FAQs)*, which is available at: https://www.omig.ny.gov/images/stories/provider_compliance/dra_faqs.pdf.

V. Completion and Return of the Attestation

The Attestation should be completed and signed by an authorized representative of your organization or practice and returned no later than **April 30, 2019**. The Attestation can be completed electronically at: <https://www.surveymonkey.com/r/DSBV2PQ>.

VI. Questions Concerning the Attestation

If you have any questions regarding this communication, please contact Sofia Khalid at khalids4@nychhc.org, or by phone at (646) 458-5632.

Thank you for taking the time to read this communication and completing the Attestation.